

HOUSE No. 23

Accompanying the seventh recommendation of the Executive Office of Labor and Workforce Development (House, No. 16). Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine.

AN ACT TO IMPROVE THE REPORTING OF WAGES IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 62E of the General Laws, as appearing in the 2006 Official
2 Edition, is hereby amended by striking out, in the second paragraph, the words “section 9 of
3 chapter 14” and inserting in place thereof the following words:- section 16 of chapter 11.

4 SECTION 2. Said section 1 of said chapter 62E, as so appearing, is hereby further amended
5 by striking out the sixth paragraph and inserting in place thereof the following paragraph:-

6 “Employer”, an employing unit subject either to chapter 151A, section 14P, or to chapter
7 62B.

8 SECTION 3. Said section 1 of said chapter 62E, as so appearing, is hereby further amended
9 by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

10 "Employee", an individual employed by an employer subject either to chapter 151A or to
11 chapter 62B.

12 SECTION 4. Said section 1 of said chapter 62E, as so appearing, is hereby further amended
13 by striking out the last paragraph and inserting in place thereof the following three paragraphs:-

14 “Reporting systems”, the wage reporting system, new hire and other reporting systems
15 established in section 2, and financial institution match system established in section 4.

16 “Wage records”, reports submitted by employers to the Director of the Division of
17 Unemployment Assistance pursuant to chapter 151A, section 14P.

18 “Wage reporting system”, a system of wage records that are provided by the Director of the
19 Division of Unemployment Assistance to the Commissioner pursuant to an interagency
20 agreement.

21 SECTION 5. Section 2 of said chapter 62E, as so appearing, is hereby amended by striking
22 out the first two sentences.

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SECTION 6. Said section 2 of said chapter 62E, as so appearing, is hereby further amended, in line 10, by striking out the words “, in addition,”.

SECTION 7. Said section 2 of said chapter 62E, as so appearing, is hereby further amended by striking out the last three sentences and inserting in place thereof the following:- The commissioner shall, by regulation, prescribe the timing, the form, and the manner of such reports and the information to be provided in the reports, which may include disclosure of the existence of an outstanding child support order. All such reports shall be part of the reporting systems.

SECTION 8. Said chapter 62E is hereby further amended by inserting after section 2 the following section:-

Section 2A. Notwithstanding any other provision of this chapter, the new hire reporting requirements of this chapter and the penalties associated with the failure to comply with those requirements shall apply to any entity electing to report new hire information to the Commonwealth pursuant to the multistate employer provisions of 42 U.S.C. § 653a(b)(1)(B).

SECTION 9. Section 3 of said chapter 62E, as so appearing, is hereby amended by striking out the words “The commissioner shall design” and all that follows through the colon and inserting in place thereof the following:- The commissioner shall operate the reporting systems:

SECTION 10. Said section 3 of said chapter 62E, as so appearing, is hereby further amended by striking out, in lines 3 to 4, the words “an entitlement” and inserting in place thereof the following words:- a public benefit.

SECTION 11. Said section 3 of said chapter 62E, as so appearing, is hereby further amended by striking out, in lines 8 to 9, the words “for free care services made from the uncompensated care pool pursuant to section 18 of chapter 118G” and inserting in place thereof the following words:- made from the health safety net trust fund.

SECTION 12. Said section 3 of said chapter 62E, as so appearing, is hereby further amended by striking out, in the second sentence, the word “system” and inserting in place thereof the following word:- systems.

SECTION 13. Said section 3 of said chapter 62E, as so appearing, is hereby further amended by striking out, in the third sentence, the word “system” and inserting in place thereof the following word:- systems.

SECTION 14. Said section 3 of said chapter 62E, as so appearing, is hereby further amended by striking out the second to last sentence and inserting in place thereof the following sentence:- Such information shall be utilized in the reporting systems as a post audit mechanism for the purpose of verifying eligibility and detecting and preventing fraud, error and abuse in public benefits provided by agencies of the commonwealth.

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57 SECTION 15. Said section 3 of said chapter 62E, as so appearing, is hereby further amended
58 by striking out, in the last sentence, the words “this reporting system” and inserting in place
59 thereof the following words:- the reporting systems.

60 SECTION 16. Said section 3 of said chapter 62E, as so appearing, is hereby further amended
61 by adding after the existing text the following new paragraph:

62 The provisions of this chapter do not apply to the utilization and dissemination of wage
63 records by the Division of Unemployment Assistance.

64 SECTION 17. Section 4 of said chapter 62E, as so appearing, is hereby amended by striking
65 out paragraph (f) and inserting in place thereof the following paragraph:-

66 (f) All reports under this section shall be part of the reporting systems.

67 SECTION 18. Section 5 of said chapter 62E, as so appearing, is hereby amended, in the first
68 sentence, by striking out the words “to him under the reporting system” and inserting in place
69 thereof the following words:- under the reporting systems.

70 SECTION 19. Section 5 of said chapter 62E, as so appearing, is hereby further amended, in
71 the first sentence, by striking out, in line 3, the word “system” and inserting in place thereof the
72 following word:- systems.

73 SECTION 20. Section 5 of said chapter 62E, as so appearing, is hereby further amended by
74 inserting, at the end of the second sentence, the following words:- , or other information as
75 determined by the commissioner.

76 SECTION 21. Section 5 of said chapter 62E, as so appearing, is hereby further amended by
77 striking out, in the third sentence, the words “presented in accordance” through the end of the
78 sentence and inserting in place thereof the following words:-, including consultation with the
79 recipient whose status is in question.

80 SECTION 22. Section 5 of said chapter 62E, as so appearing, is hereby further amended by
81 striking out, in the last sentence, the word “system” and inserting in place thereof the following
82 word:- systems.

83 SECTION 23. Section 6 of said chapter 62E, as so appearing, is hereby amended by striking
84 out the words “in accordance with regulations” and all that follows through the end of the section.

85 SECTION 24. Section 6B of said chapter 62E, as so appearing, is hereby amended by
86 striking out the words “, pursuant to procedures established by said commission,”.

87 SECTION 25. Section 7 of said chapter 62E, as appearing, is hereby amended by striking out
88 the words “administering department” and inserting in place thereof the following words:-
89 commissioner and the administering department.

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90 SECTION 26. Section 7A of said chapter 62E, as so appearing, is hereby amended by
91 striking out the words “wage reporting data compiled by the department from the quarterly
92 reports filed by employers” and inserting in place thereof the following words:- reporting
93 systems.

94 SECTION 27. Section 8 of said chapter 62E, as so appearing, is hereby amended by striking
95 out, in the first sentence, the word “system” and inserting in place thereof the following word:-
96 systems.

97 SECTION 28. Section 9 of said chapter 62E, as so appearing, is hereby amended by striking
98 out, in the second paragraph, the word “treasurer” and inserting in place thereof the following
99 word:- person.

100 SECTION 29. Section 10 of said chapter 62E is hereby repealed.

101 SECTION 30. Section 11 of said chapter 62E, as appearing in the 2006 Official Edition, is
102 hereby amended by striking out, in the first sentence, the words “establish a program of wage and
103 financial institution information sharing” and inserting in place thereof the following words:-
104 share reporting system information.

105 SECTION 31. Said section 11 of said chapter 62E, as so appearing, is hereby further
106 amended by striking out, in the third sentence, the words “wage reporting system” and inserting
107 in place thereof the following words:- reporting systems.

108 SECTION 32. Said section 11 of said chapter 62E, as so appearing, is hereby further
109 amended by striking out, in the fourth sentence, the words “wage and financial institution
110 information” and inserting in place thereof the following words:- reporting system information.

111 SECTION 33. Section 12 of said chapter 62E, as so appearing, is hereby amended by
112 striking out, in the first sentence, the words “wage and financial institution information data” and
113 inserting in place thereof the following words:- reporting system information.

114 SECTION 34. Said section 12 of said chapter 62E, as so appearing, is hereby further
115 amended by striking out, in the first sentence of the second paragraph, the words “wage reporting
116 system” and inserting in place thereof the following words:- reporting systems.

117 SECTION 35. Said section 12 of said chapter 62E, as so appearing, is hereby further
118 amended by striking out, in the second sentence of the second paragraph, the words “wage
119 reporting and financial institution match system” and inserting in place thereof the following
120 words:- reporting systems.

121 SECTION 36. Said section 12 of said chapter 62E, as so appearing, is hereby further
122 amended by striking out, in the second sentence of the second paragraph, the words “relating to
123 administration of the tax laws, public assistance programs of the commonwealth or any political

subdivision thereof or their respective agencies, workers' compensation laws or the child support enforcement program of the commonwealth;".

SECTION 37. Said section 12 of said chapter 62E, as so appearing, is hereby further amended by striking out, in the last sentence of the second paragraph, the words "wage reporting data" and inserting in place thereof the following words:- reporting system information.

SECTION 38. Section 13 of said chapter 62E is hereby repealed.

SECTION 39. Section 14G of chapter 151A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out subsection (g).

SECTION 40. Said chapter 151A is hereby further amended by adding after section 14 O the following new section: -

Section 14P. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

(1) "Director", the director of the division of unemployment assistance.

(2) "Division", the division of unemployment assistance.

(3) "Employee", any individual employed by an employer subject either to this chapter or to chapter sixty-two B.

(4) "Employer", any employing unit subject either to this chapter or to chapter sixty-two B.

(b) All employers who are or become either subject to the provisions of this chapter or subject to the provisions of chapter sixty-two B shall register with the division in the time, form and manner as may be prescribed by the director.

(c) Beginning with the calendar quarter ending December 31, 2009, every employer as defined in this section shall, for each calendar quarter, submit in the time, form and manner as may be prescribed by the director a report containing, but not limited to, the following information for each employee: name, social security number, wages paid as defined in section 1(s) of this chapter, hours worked, total amount of taxes withheld under the provision of chapter sixty-two B and the amount of wages as defined in section 1 of chapter sixty-two B upon which the withholding was based, the identification number assigned the employer by the division, the corresponding federal employer identification number and the identification number such employer is required to include on a withholding tax return filed pursuant to chapter sixty-two B. The report also shall include the count of all employees as defined in section 1(h) of this chapter who worked during or received wages as defined in section 1(s) of this chapter for the pay period which includes the twelfth day of each month of the applicable quarter. The report shall be submitted quarterly according to a schedule prescribed by the director. The report shall be deemed submitted when received by the division.

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(d) The director may require by regulation an employer to submit the report specified in subsection (c) using a form and means of electronic transmittal as prescribed by the director. The regulation may include penalties for failure to comply with the filing requirements.

(e) If an employer fails to file any report or form required by this section or section 14G of this chapter within fifteen days from the date of which the director has mailed to such employer a demand for such report or form, the director may assess upon such employer a penalty as follows:

WORKFORCE SIZE

PENALTY AMOUNT

0-4 \$25.00

5-9 \$100.00

10-49 \$250.00

50-99 \$500.00

100-499 \$1,000.00

500 and up \$2,500.00

The director shall determine the applicable workforce size by taking an average of the monthly employment count reported by the employer as required by subsection (c) for the most recent quarter; provided that, if the employer has not filed any reports required by subsection (c), the director may determine the applicable workforce size from any available information. Each such failure to file shall constitute a separate and distinct offense.

(f) The director shall provide information secured under this section to the commissioner of the department of revenue pursuant to an interagency agreement between the division and the department of revenue. The commissioner of the department of revenue may provide such information pursuant to an interagency agreement with other governmental entities as specified in chapter sixty-two E. The director is authorized to provide information secured under this section to other entities pursuant to an agreement which is consistent with the provision of 20 CFR Pt 603.

(g) Information secured pursuant to this section may be used as part of the Wage Record Interchange System established and implemented to carry out the provisions of the Workforce Investment Act of 1998.

(h) Except where inconsistent with the provisions of this section, the provisions of this chapter, including the rules and regulations adopted under this chapter, shall apply to the requirements of this section.

(i) The director shall promulgate regulations necessary to implement this section.

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191 SECTION 41. Subsection (a) of section 15 of said chapter 151A, as appearing in the 2006
192 Official Edition, is hereby amended by striking out the second paragraph.

193 SECTION 42. Sections 1 through 39 and section 41 of this Act shall take effect October 1,
194 2009. Section 40 of this Act shall take effect July 1, 2009.